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September 4, 2008

The Honorable Joseph J. Farnan, Jr.
United States District Court
For the District of Delaware
844 North King Street
Wilmington, DE 19801

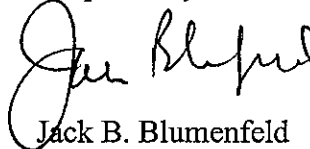
VIA ELECTRONIC FILING

Re: *Wyeth v. Sandoz, Inc.*; C.A. No. 08-317 (JJF)

Dear Judge Farnan:

Attached is a proposed Scheduling Order that has been agreed upon by the parties. If it meets with the Court's approval, we request that it be entered.

Respectfully,



Jack B. Blumenfeld

JBB/dlb

Enclosure

cc: Clerk of Court (Via Hand Delivery; w/ encl.)
George H. Seitz, III, Esquire (Via Electronic Mail and Hand Delivery; w/ encl.)
Keith D. Parr, Esquire (Via Electronic Mail; w/ encl.)
Jeffrey B. Elikan, Esquire (Via Electronic Mail; w/ encl.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WYETH,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 08-317 (JJF)
)	
SANDOZ, INC.)	
)	
Defendant.)	

RULE 16 SCHEDULING ORDER

The parties, having satisfied their obligations under Fed. R. Civ. P. 26(f), jointly submit the following Proposed Rule 16 Scheduling Order.

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by September 18, 2008 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.1.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before December 4, 2008.

3. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Stark for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact the Magistrate Judge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

4. **Discovery.**

(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by May 4, 2009.

(b) Maximum of 25 interrogatories, including contention interrogatories, for each side.

(c) Maximum of 50 requests for admission by each side, except that there shall be no limit on requests for admission used solely to establish the authenticity of a document.

(d) Maximum of 10 depositions by plaintiff(s) and 10 by defendant(s), excluding expert depositions. Depositions shall not commence until the discovery required by Paragraph 4 ((a) and (b)) is completed. Fact discovery shall be completed by August 4, 2009.

(e) Opening reports from retained experts required by Fed. R. Civ. P. 26(a)(2) on the issues on which a party bears the burden of proof are due thirty (30) days after the issuance of the Court's Markman decision. Rebuttal expert reports (including any secondary considerations of nonobviousness) are due thirty (30) days after the due date for opening expert reports. Reply expert reports addressing secondary considerations (if secondary considerations are addressed in any rebuttal report) are due sixty (60) days after the due date for opening expert reports.

(f) Depositions of expert witnesses are to be completed no later than one hundred and twenty (120) days from the due date for opening expert reports, unless otherwise agreed in writing by the parties or ordered by the Court.

5. Non-Case Dispositive Motions.

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The hearing date selected shall allow time for filing of the motion, allow for briefing in accordance with the Federal and Local Rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be

heard. Available motion dates will be posted on the Court's website at: <http://ded.uscourts.gov/JJFmain.htm>.

(b) At the motion hearing, each side will be allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by-email at: jjf_civil@ded.uscourts.gov.

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before February 4, 2009.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief no later than 45 days after the close of expert discovery. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The parties shall follow the Court's procedures for summary judgment motions which is available on the Court's website at: <http://www.ded.uscourts.gov/JJFmain.htm>.

8. **Markman.** A Markman Hearing, if necessary, will be held on October 2, 2009. The parties shall identify and exchange their contentions at least forty-five (45) days before the Markman Hearing. Briefing on the claim construction issues shall be completed at least twenty (20) days prior to the hearing. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

9. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended

Effective June 30, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on procedures for filing non-dispositive motions in patent cases. Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

10. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

DATE

UNITED STATES DISTRICT JUDGE